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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/589,847	08/18/2006	Anja Gerhard	14113-00051-US	3553
23416	7590	06/11/2009	EXAMINER	
CONNOLLY BOVE LODGE & HUTZ, LLP			WILSON, MICHAEL H	
P O BOX 2207				
WILMINGTON, DE 19899			ART UNIT	PAPER NUMBER
			1794	
			MAIL DATE	DELIVERY MODE
			06/11/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/589,847	GERHARD ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	MICHAEL WILSON	1794	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 29 January 2009.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-4 and 9-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-4 and 10-14 is/are rejected.
- 7) Claim(s) 9 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | Paper No(s)/Mail Date. _____ .                                    |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>20081010</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application |
|   | 6) <input type="checkbox"/> Other: _____ .                        |

## **DETAILED ACTION**

### ***Response to Amendment***

1. This Office action is in response to Applicant's amendment filed 29 January, 2009, which cancels claims 5-8 amends claims 1, 2, 4, and 9-13.  
  
Claims 1-4 and 9-14 are pending.
2. The objection to claim 8 is withdrawn due to applicants cancelling of the claim.
3. The rejection of claim 9 under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential elements is withdrawn due to applicants amending of the claim.
4. The nonstatutory obviousness-type double patenting rejection of claims 1-10, 12, and 14 as being unpatentable over claims 1-6 and 15-18 of U.S. Patent No. 7,345,301 B2 in view of Shi et al. (US 5,755,999) is withdrawn due to applicant's filing of a proper Terminal Disclaimer.

### ***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-4 and 10-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Suzuki et al. (US 2003/0008174 A1).

Regarding claims 1-3, Suzuki et al. discloses an electronic device, which is an organic electroluminescent device ([0001]-[0002]), comprising a cathode, anode [0015] and at least one organic layer between the electrodes ([0016]-[0017]) comprising a compound of instant formula (3) [0021]. The reference also discloses the device further comprising a fluorescent emitter [0098] without a phosphorescent emitter.

Regarding the absorption edge of the compound, while the reference does not explicitly disclose the absorption edge, the compounds of Suzuki et al. are within the formula of compounds claimed by applicant as possessing the absorbance property. Therefore, since the compounds disclosed by Suzuki et al. being within the formula claimed by applicant, the absorbance edge of the compounds would be expected inherently to have the same properties as disclosed by applicant. Recitation of a newly disclosed property does not distinguish over a reference disclosure of the article or composition claims. *General Electric v. Jewe Incandescent Lamp Co.*, 67 USPQ 155. *Titanium Metal Corp. v. Banner*, 227 USPQ 773. Applicant bears responsibility for proving that reference composition does not possess the characteristics recited in the claims. *In re Fitzgerald*, 205 USPQ 597, *In re Best*, 195 USPQ 430.

Regarding claim 4, Suzuki et al. disclose all the claim limitations as set forth above. While the reference does not explicitly disclose the glass transition temperatures for the compounds of Suzuki et al. the compounds are within the formula disclosed by applicant as having a glass transition temperature of greater than 80°C. Therefore since the compounds disclosed by Suzuki et al. are within the formula claimed by applicant, the glass transition temperature of the compounds would be

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expected inherently to have the same properties as disclosed by applicant. Recitation of a newly disclosed property does not distinguish over a reference disclosure of the article or composition claims. *General Electric v. Jewe Incandescent Lamp Co.*, 67 USPQ 155. *Titanium Metal Corp. v. Banner*, 227 USPQ 773. Applicant bears responsibility for proving that reference composition does not possess the characteristics recited in the claims. In *re Fitzgerald*, 205 USPQ 597, In *re Best*, 195 USPQ 430.

Regarding claims 10 and 11, Suzuki et al. disclose all the claim limitations as set forth above. Additionally the reference discloses wherein the compound is an electron transporting compound within the electron transporting layer ([0051] and [0098]).

Regarding claims 12 and 13, Suzuki et al. disclose all the claim limitations as set forth above. Additionally the reference discloses wherein the compound comprises at least 50% of the layers composition or 100% of the layer [0098].

Regarding claim 14, Suzuki et al. disclose all the claim limitations as set forth above. Additionally the reference discloses wherein the device fluorescent emitter compound emits blue light [0100], which is within the range of 380-750 nm.

### ***Allowable Subject Matter***

7. Claim 9 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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8. The following is a statement of reasons for the indication of allowable subject matter: While the closest prior art, Suzuki et al. (US 2003/0008174 A1), teaches compounds of instant formula (3) as electron transport material used in organic electroluminescent devices, the prior art does not teach or suggest the specific compounds of instant claim 9.

***Response to Arguments***

9. Applicant's arguments filed 29 January, 2009 have been fully considered but they are not persuasive.

Applicant argues regarding Suzuki et al. requires a bond between R<sup>2</sup> and Ar and asserts that there is no bond between R<sup>2</sup> and Ar in the structure of instant Formula (3) recited in claim 1 and thus no ring is formed between these groups. However a bond between R<sup>2</sup> and Ar is not excluded from the present claims and is embraced by examples 19 and 20 of claim 9.

***Conclusion***

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL WILSON whose telephone number is (571) 270-3882. The examiner can normally be reached on Monday-Thursday, 7:30-5:00PM EST, alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Larry Tarazano can be reached on (571) 272-1515. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

12. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/D. Lawrence Tarazano/  
Supervisory Patent Examiner, Art Unit 1794

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